

**Response to Restriction Requirement.**

Claims 1-12 and 23-33 are pending in this application. In the above-referenced Restriction Requirement, the Examiner requests that Applicants elect between two (2), allegedly, patentably distinct inventions for prosecution in this application. The Examiner has identified the following two (2) groups of claims:

<u>Group:</u>	<u>Description of Invention:</u>
<b>Group I</b> (claims 1-12)	A coupler, classified in class 606, subclass 151.
<b>Group II</b> (claims 23-33)	A conduit coupling device, classified in class 606, subclass 153.

**Therefore, in response to the Election of Species Requirement, Applicants hereby elect Group I (claims 1-12), with traverse, for prosecution on the merits, and Applicants request further consideration of this application in view of this election.**

According to the Manual of Patent Examining Procedure (MPEP), a restriction requirement is appropriate only when the groups are shown to be distinct and when a “serious burden” would be placed on the examiner to examine more than one group. MPEP 803(I). “If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” MPEP 803 (emphasis added).

The Restriction Requirement asserts that each of Groups I and II are related as directed to a combination and a subcombination. Restriction Requirement at Page 2. Further, the Restriction Requirement asserts (1) that the combination does not require the particulars of the subcombination as claimed for patentability, and (2) the subcombination has utility by itself or with other combinations. Id. These assertions, however, suggest only that the inventions described by the groups are distinct. See MPEP 806.05(e).

According to MPEP 808.02, the Restriction Requirement “must show by appropriate explanation one of the following: [(1) separate classification, (2) a separate status in the art, or (3) a different field of search.]” (Emphasis added.) The Restriction Requirement lists five (5) reasons, some of which are not included in MPEP 808.02, why the search and examination of the two groups might place a “serious burden” on the Examiner, but it is unclear from the Restriction Requirement, which of these reasons is relied upon to demonstrate that

examination of more than one group would impose a “serious burden” on the Examiner. Restriction Requirement at Pages 3–4. The Restriction Requirement indicates that the two (2) groups would be classified in separate subclasses of Class 606. It is common, however, for an examiner to search more than one subclass during the search of an invention. Consequently, Applicants contend that a search of either group would necessarily encompass a search for and consider subject matter of the other group. Thus, the Restriction Requirement fails to demonstrate that searching two (2) subclasses would place a “serious burden” upon the Examiner.

Further, in view of the fact that the subject matter of Groups I and II have been fully searched and that the claims of these two groups have been examined together resulting in the issuance of four Office Actions in the present application, including a final Office Action, there can be no serious burden on the Examiner. In view of the foregoing remarks, Applicants traverse the restriction requirement and respectfully request that the Examiner reconsider and withdraw the restriction requirement.

**Conclusion:**


Applicants respectfully submit that this application is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that an interview with Applicants' representatives, either in person or by telephone, would expedite prosecution of this application, we would welcome such an opportunity.

The deadline to respond to the Election of Species Requirement, with a one-month extension of time, is August 4, 2008, and Applicants believe that no additional fees are due as a result of this Response to the Election of Species Requirement, other than the fees associated with a one-month extension of time. Nevertheless, in the event of any variance between the fees determined by Applicants and those determined by the PTO, please charge or credit any such variance to the Undersigned's **Deposit Account No. 02-0375**.

Respectfully submitted,  
BAKER BOTTS, L.L.P.

Date: **July 29, 2008**

By:

  
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